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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,724	10/26/2001	Wyatt Allen Huddleston	PF02200NA/10-31	9665
23400	7590	02/09/2005	EXAMINER	
POSZ & BETHARDS, PLC 11250 ROGER BACON DRIVE SUITE 10 RESTON, VA 20190			AVELLINO, JOSEPH E	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/045,724	Applicant(s) HUDDLESTON ET AL.	
	Examiner Joseph E. Avellino	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/26/01</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-20 are presented for examination; claims 1, 11, and 18 independent.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 8, 9, 11-12, 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tessler et al. (USPN 5,629,868) (hereinafter Tessler).

3. Referring to claim 1, Tessler discloses a method for command brokering on behalf of an intelligent device, comprising the steps of:

defining in a wireless internet access device (i.e. TV remote control) a desired function to be performed (i.e. controlling an appliance) (col. 2, lines 36-50);

identifying the intelligent device and the desired function to a web site (i.e. subscriber station) having access to control instructions for the intelligent device (col. 2, lines 36-50);

returning, to the WIAD from the web site, a subset of the control instructions for controlling the intelligent device to perform the desired function (col. 2, lines 45-50); and

forwarding the subset of the control instructions from the WIAD to the intelligent device to effect the desired function (col. 2, lines 63-67).

4. Referring to claim 2, Tessler discloses the forwarding step comprises forwarding through an infrared communication device (Figure 1, ref. 35).

5. Referring to claim 5, Tessler discloses the defining step comprises defining through a user keypad entry (col. 2, lines 36-50).

6. Referring to claim 8, Tessler discloses arranging for the web site to have access to the control instructions by pre-programming the control instructions into a memory of the web site (col. 2, lines 36-50).

7. Referring to claim 9, Tessler discloses accessing a server having the control instructions for controlling the intelligent device (any device which transmits the control signals is considered a "server" since it "serves" the control codes to a client requesting the data) (col. 2, lines 36-50).

8. Claims 11-12, 15, and 17-20 are rejected for similar reasons as stated above.

Art Unit: 2143

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3, 4, 6, 7, 13, 14, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tessler in view of Maymudes (USPN 6,748,278).

11. Referring to claims 3 and 4, Tessler discloses the invention substantively as described in claim 1. Tessler does not disclose forwarding through a RF or ultrasonic communication device. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein the forwarding can occur through an

Art Unit: 2143

RF or ultrasonic communication device (i.e. RF or Bluetooth) (col. 3, lines 20-32). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with Tessler since Tessler discloses the invention can be used with a plurality of different devices (col. 3, lines 10-20). This would lead one of ordinary skill in the art to determine which other intelligent devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

12. Referring to claim 6 and 7, Tessler discloses the invention substantively as described in claim 1. Tessler does not disclose defining said desired function is made by a measurement by the WIAD. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein defining said desired function is made by a measurement by the WIAD (i.e. computer facilitator 202) (col. 5, lines 35-43). Furthermore, since the WIAD is connected to the wireless network, and also the remote controller 204 and controlled device 206 are as well, it is considered that the measurement is done by the wireless communication network as well. It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with Tessler since Tessler discloses the invention can be used with a plurality of different devices (col. 3, lines 10-20). This would lead one of ordinary skill in the art to determine which other intelligent devices can be used

Art Unit: 2143

for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

13. Claims 13, 14, and 16 are rejected for similar reasons as stated above.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tessier in view of Baun et al. (US 2003/0197930) (hereinafter Baun).

14. Tessier discloses the invention substantively as described in claim 1. Tessier does not disclose the intelligent device is a telescope and the defining step comprises determining coordinates based on a position. In analogous art, Baun discloses another method for brokering control which discloses intelligent device is a telescope (e.g. abstract) and the defining step comprises determining coordinates based on a position (p. 8, ¶ 87). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Baun with Tessler since Tessler discloses the invention can be used with a plurality of different devices (col. 3, lines 10-20). This would lead one of ordinary skill in the art to determine which other intelligent devices can be used for brokering command, eventually finding Baun finding a command broker for GPS systems for telescopes (col. 7, lines 40-50).

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
16. Venkatraman et al. (USPN 6,139,177) discloses device access and control using embedded web access functionality.
17. Brown et al. (USPN 6,542,925) discloses generation and distribution of motion commands over a distributed network.
18. Nixon et al. (USPN 6,806,847) discloses portable computer in a process control environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA

January 28, 2005

Will C. Vaughn  
Primary Examiner  
Art Unit 2143  
William C. Vaughn J.